IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9519 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE D.K.TRIVEDI
and
HON'BLE MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MALI RAMAJI CHELAJI

Versus

STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 9519 of 2004
MR AJ SHASTRI for Petitioner No. 1
Mr.S.P.Hasurkar, learned AGP, for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE D.K.TRIVEDI
and
HON'BLE MR.JUSTICE K.M.MEHTA

Date of decision: 19/08/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE D.K.TRIVEDI)

1. The petitioner has approached this court supported with an affidavit of the petitioner dated 2.8.2004 and prayed for seeking direction by way of issuance of writ by directing the respondent authority to consider the request of the petitioner and grant land accordingly approximately in measurement at village Kant from village Survey No.237 or in the alternative praying that the respondents be directed to consider and accordingly allot the land to the petitioner at nearby village Kotada Bhakhar by cancelling earlier allotment at village Bhatram. Considering the submissions made in the petition, we had issued notice, which was made returnable on 13.8.2004 by permitting direct service. The petitioner has also annexed various documents attached to the petition and one of the documents attached is the document in the form of letter issued by the petitioner dated 21.7.2004 addressed to the Deputy Collector and Land Acquisition and Rehabilitation "SIPU' Yojna, Palanpur in which he has also annexed the affidavit on a stamp paper of Rs.10/-- dated 21.7.2004 and the copy of the said letter was addressed to various authorities, namely, the Addl. Collector, Irrigation Gandhinagar and Collector, Banaskantha at Palanpur.

2. In response to the notice issued to the respondents Mr.Hasurkar, learned AGP, appears. By consent of the counsel appearing in the matter, the Court is inclined to issue rule and with their request rule is fixed forthwith, as Mr.Hasurkar, learned AGP, has waived service of rule on behalf of respondents.

3. We have heard Mr.Shastri, who appeared for the petitioner, who in turn has taken us through the petition and the documents attached thereto, including the last letter addressed by the petitioner to Deputy Collector, Palanpur dated 21.7.2004 in which the petitioner has requested for allotment of land and also highlighted that as per the Scheme, the land of the petitioner was acquired and the petitioner was also allotted land for agricultural purposes as well as for residential purpose. However, as the land, which was allotted for agricultural

purposes, was at a far distance, he has not taken possession of the land and requested the authority by highlighting the inconvenience by allotting such land as well as also the condition of the land as the land was not fertile and according to the petitioner the land which was allotted was rocky land. In the letter dated 21.7.2004, the petitioner has requested the authority for cancellation of the earlier allotment of the agricultural land and requested the authority for allotment of land under the Scheme for which the petitioner has also submitted required affidavit to the said authority.

4. Mr.Hasurkar, learned AGP, after taking instructions from the officers from the respondent No.3, who are also present, has submitted that on getting the letter dated 21.7.2004 the necessary proposal for allotment of the land to the petitioner is made and the proposal is submitted to the Collector for his consideration and the same is pending. Without expressing anything on the merits of the contentions raised before us as contended by Mr.Shastri and as contended in this petition and in view of the fact that the petitioner has approached this Court, when the petitioner has not heard anything in respect of which he has made representation on 21.7.2004 and considering the stand taken by the respondents as contended by Mr.Hasurkar, the learned AGP, that in view of the letter received by the Deputy Collector from the petitioner, the authority had submitted the proposal, which is under consideration before the Collector, it is a fact that the land of the petitioner was earlier acquired for the public purpose and under the rehabilitation Scheme, the agricultural land as well land for the purpose of residence was allotted to the petitioner and the agricultural land, which was allotted to the petitioner, was far away and it was not useful to the petitioner to get that land cultivated and accordingly the petitioner has not taken possession of the said land. Under the Rehabilitation Scheme the petitioner was entitled to agricultural land. As the possession of the land, which was allotted to the petitioner, is not taken by the petitioner and the petitioner has addressed a letter recently to the Deputy Collector on 21.7.2004 requesting the authority for allotment of the land by cancelling the earlier allotment of land granted in favour of the petitioner and as the proposal is now pending before the Collector, we are of the view that when the matter is pending before the Collector for consideration, while disposing of this petition, we observe that the Collector shall decide for allotment of the land as requested by the petitioner as per his letter addressed to the Deputy

Collector, for which the Deputy Collector had already submitted remarks by way of report and the Collector shall decide it in accordance with law as expeditiously as possible and the decision on the same be communicated to the petitioner. Liberty is granted to the petitioner in case of difficulty. Rule is accordingly disposed off with no costs.

(D.K.Trivedi,J)

(K.M.Mehta,J)

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